Lautenberg Amendment

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133AW, Minneapolis

History

- Amends the Federal Gun Control Act of 1968
- Effective 30 September 1996
  - applies to convictions after this date
- Applies to Air Guard members

Provisions of the Law

- It is a felony for:
  - anyone convicted of misdemeanor domestic violence to:
    - ship, transport, possess, receive firearms/ammo
- It is a felony to:
  - sell or transfer firearms or ammo to:
    - any person convicted of misdemeanor crime of domestic violence

Domestic Violence Defined

- Domestic violence is a state or federal crime that includes as an element:
  - use or attempted use of physical force, or
  - threatened use of a deadly weapon
  - committed on current/former spouse, child or person with whom there is a child in common
  - or if cohabitated as if any of the above existed
  - or other similar situations

Penalties

- Imprisonment of up to 10 years
- Maximum fine - $250,000

Not Applicable to:

- Major military weapons systems or crew-served weapons (missiles, aircraft)
- Non-judicial punishment, deferred prosecutions, summary court-martial
- Convictions that have been:
  - expunged, set aside, pardoned, or
  - where the person's civil rights have been restored
  - unless the order provides otherwise

Commander's Duties

- When you know or reasonably believe that the person has a misdemeanor domestic abuse conviction:
  - Do not issue firearms or ammo
  - Do retrieve government-issued firearms
  - Do advise of duty to dispose of personal arms
- Retain, reclassify, reassign members with these convictions to other non-firearm duties

Do Not:

- Enlist members with these convictions in the Guard
- Take any administrative action against individuals with these convictions unless:
  - another independent basis exists
- Deploy current members with these convictions if they may need to carry or be trained in small arms
- Survey members or ask if they have convictions
- Give anyone with this type of conviction a direct commission or enter into commissioning program

COMMON PITFALLS

- FAILURE TO RECOGNIZE IT MUST BE A CONVICTION

QUESTIONS?